

DEPARTMENT OF ENVIRONMENTAL QUALITY
Division of Air Program Coordination
Office of Air Permit Programs

MEMORANDUM

TO: Terrance J. Godar
Air Permit Manager, NVRO

FROM: Robert L. Beasley
Assistant Division Director, DAPC-OAPP

SUBJECT: Interpretation of "Designed to Accommodate" in the
New Source Review Definition of "Modification"

Copies: John M. Daniel, Jr., P.E., DEE
Director, Division of Air Program Coordination

Regional Air Permit Managers

DATE: October 16, 1998

This is in response to your memo, same subject, dated September 22. In that memo, you asked, on behalf of yourself and the other Air Permit Managers, whether I agreed with your interpretation of the term "designed to accommodate" as it appears in sub-section (4) of the definition of "Modification" in the new source review permitting rule, 9 VAC 5-80-10 B.3. in the Regulations. You also asked for my preference on who should respond to the source which raised the question to you.

The short answers to your questions are:

(1) I agree with your interpretation of the term "designed to accommodate" as described below.

(2) I recommend that you respond directly to the source which contacted you with this question.

Discussion

As you discussed with Charlie Ellis of my staff on October 5, the provision is essentially aimed at sources which would face permitting for a modification if a change in fuel or raw material is one which the emissions unit in question were not "designed to accommodate." The question was raised to you because there is a divergence of opinion around the nation on how to interpret the term "designed to accommodate." A recent case in Florida stated that the facility was not capable of using the alternative fuel or raw material unless the material was specifically named in final design documents. In another case, the facility owner could change the material handling equipment so long as the equipment itself did not require a permit and the unit using the material did not require modification.

In deciding whether an emissions unit is designed to accommodate an alternative fuel or raw material, we might ask the following questions:

(1) Does the alternative fuel or raw material need to be named, either in the permit if there is one, or in the final specifications for the emissions unit, in order for the emission unit to be "designed to accommodate" the alternative?

Answer: Not if no physical changes were needed in order to burn the fuel or process the material.

(2) Does the use of the alternative fuel or raw material require any change in the emissions unit or its control equipment?

Answer: If it does, then the change in the emissions unit needs to be evaluated to determine permit applicability or the applicability of the coal preparation NSPS. New material handling equipment would need to be evaluated, as well. However, the change in the control equipment would not require permit evaluation but might require control technology evaluation if it is connected to a unit requiring a permit.

Your memo provided adequate discussion of applicable cases. It went on to recommend that a unit be considered to be "designed to accommodate" an alternative fuel or raw material if (a) the fuel could be combusted without making a physical change to the combustion unit, or (b) the fuel handling system was included in final construction specifications for the unit. If a change in the fuel handling system is required to accommodate the change in fuels, it would require evaluation to determine PSD applicability and also to determine whether the change is a modification under the coal preparation NSPS (40 CFR Part 60, subpart Y). As indicated above, we agree with these conclusions.

Please note that previously issued permits may establish less flexible conditions. Where previous permits exist, their conditions affecting alternative fuels or raw materials would need to be evaluated case by case.

The question of the possible need for permitting of increased emissions attributable to changes in fuels or raw materials does not arise in the analysis of "designed to accommodate." That is because it is effectively addressed, as you agreed in the telephone conversation, by (a) the PSD applicability evaluation, (b) the coal preparation NSPS applicability evaluation, and (c) the other provisions of the definition of "modification" in 9 VAC 5-80-10 B.3.

I hope this discussion is helpful to you in resolving the question asked by your source.